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Centers for Medicare & Medicaid Services

42 CFR Parts 412, 413, 414, 419, 424, 482, 485, and 489

CMS-1599-& 1455-CN5

RINs 0938-AR53 and 0938-AR73

**Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute
Care Hospitals and the Long-Term Care Hospital Prospective Payment System and
Fiscal Year 2014 Rates; Quality Reporting Requirements for Specific Providers;
Hospital Conditions of Participation; Payment Policies Related to Patient Status;
Corrections**

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rules; correction.

SUMMARY: This document corrects technical errors in the final rules that appeared in the August 19, 2013 **Federal Register** titled "Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2014 Rates; Quality Reporting Requirements for Specific Providers; Hospital Conditions of Participation; Payment Policies Related to Patient Status."

DATES: This correcting document is effective on [OFR: Insert date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2013-18956, which appeared in the August 19, 2013 **Federal**

Register (78 FR 50496) entitled "Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2014 Rates; Quality Reporting Requirements for Specific Providers; Hospital Conditions of Participation; Payment Policies Related to Patient Status" (hereinafter referred to as the FY 2014 IPPS/LTCH PPS final rule) there were technical errors that are identified and corrected in the Correction of Errors section of this correcting document.

II. Summary of Errors in the Preamble

On page 50695, in the table entitled "Finalized Performance Standards for Certain FY 2016 Hospital VBP Program Outcome Domain Measures," the performance standards for the PSI-90 measure are not consistent with the FY 2016 performance standards that we finalized for that measure. We also note that we have made similar corrections to the FY 2013 IPPS/LTCH PPS final rule published elsewhere in this issue of the **Federal Register**.

III. Waiver of Proposed Rulemaking and Delay of Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of

final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

In our view, this correcting document does not constitute a rule that would be subject to the APA notice and comment or delayed effective date requirements. This correcting document corrects technical errors in certain HVBP tables but does not make substantive changes to the HVBP policies that were adopted in the final rule. As a result, this correcting document is intended to ensure that the HVBP tables accurately reflect the policies previously adopted for the HVBP Program.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule or delaying the effective date would be contrary to the public interest because it is in the public's interest for providers to receive appropriate table values in as timely a manner as possible, and to ensure that the FY 2014 IPPS/LTCH PPS final rule accurately reflects our HVBP policies. Furthermore, such procedures would be unnecessary, as we are not altering our HVBP policies, but rather, we are simply implementing correctly the policy for calculating certain HVBP table values that we previously proposed, received comment on, and subsequently finalized. This correcting document is intended solely to ensure that the FY 2014 IPPS/LTCH PPS final rule accurately reflects these HVBP policies. Therefore, we believe we have good cause to waive the notice and comment and effective

date requirements.

IV. Correction of Errors

In FR Doc. 2013-18956 of August 19, 2013 (78 FR 50496), make the following corrections:

1. On page 50695, lower fourth of the page, in the table entitled "FINALIZED PERFORMANCE STANDARDS FOR CERTAIN FY 2016 HOSPITAL VBP PROGRAM OUTCOME DOMAIN MEASURES," the performance standards for the PSI-90 measure are corrected to read as follows:

Measure ID	Description	Achievement Threshold	Benchmark
Outcome Measures			
PSI-90	Complication/Patient safety for selected indicators (composite)	0.616248	0.449988

CMS-1599 & 1455-CN5

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare--Hospital Insurance; and Program No. 93.774, Medicare--Supplementary Medical Insurance Program)

Dated: March 6, 2014

Jennifer M. Cannistra,

Executive Secretary to the Department,

Department of Health and Human Services.

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